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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,680

09/19/2003

Kendra Gallup

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6256

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12/28/2005

AGILENT TECHNOLOGIES, INC.

Legal Department, DL429

Intellectual Property Administration

P.O. Box 7599

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EXAMINER

CHIEM, DINH D

ART UNIT

PAPER NUMBER

2883

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/665,680

Applicant(s)

GALLUP ET AL.

Examiner

Erin D. Chiem

Art Unit

2883

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments are as followed:

- 1) The light in Yamamoto's photoreception device is refracted and not reflected
- 2) Yamamoto does not refer to or suggest coating 15 as being a part of a cap overlying a die.
- 3) Yamamoto does not teach directing light through support substrate.
- 4) Yamamoto does not teach mounting a die including a laser on device substrate.

Examiner's reply to the arguments are as followed:

- 1) Although applicant's instant argument is untimely, but the examiner respectfully direct applicant to Fig. 25 wherein the light is reflected against surface 3B. This teaching is in accordance to Yamamoto's technical background teaching wherein the light may be refracted or reflected (col. 1, lines 14-17).
- 2) Referring back to Fig. 25 wherein the lens 3B is an etched surface in substrate 3 having a reflective coating 15, thus the light from the photodiode (7) may be reflected. It is further clarified that that the substrate having lens surface 3B may be interpretable as being a part of a cap overlying a die having portions (21a, 21b). Although Yamamoto does not explicitly use the term "die," but the prior art need not anticipate applicant's lexicography. The examiner has the latitude to consider structural elements to be relied upon that would be reasonably conveyed to one having ordinary skill in the art, in the instant case "a die." It is well known that a die is cut-out of a slicion wafer wherein the electrical connections and mechanical support is provided, as surveyed by Yamamoto in the Summary of Invention (col. 5, lines 43-45).
- 3) Referring back to Fig. 25, the light does direct through the support substrate and the examiner interprets the supporting substrate of Yamamoto as elements 1 and the 13. Although there is a 90 degree bend, but the examiner does not find this to be a patentable distinction.
- 4) Yamamoto does teach the mounting a die including a laser on the device substrate. Please see Fig. 25 as the drawing is illustrative in view of the columns and lines citation in the relevant response above.

EBc

Michelle R. Connelly-Cushwa
MICHELLE CONNELLY-CUSHWA
PRIMARY EXAMINER
12/27/05